

SENATE BILL No. 355

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-23; IC 20-26-4-7.

Synopsis: School board elections. Requires that the members of the governing body of a school corporation be elected. Repeals a superseded statute providing for the option of appointment of members of a governing body.

Effective: July 1, 2007.

Waterman

January 11, 2007, read first time and referred to Committee on Local Government and Elections.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 355

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-23-4-12, AS AMENDED BY P.L.2-2006,
2 SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 12. (a) In formulating a preliminary reorganization
4 plan and with respect to each of the community school corporations
5 that are a part of the reorganization plan, the county committee shall
6 determine the following:

7 (1) The name of the community school corporation.

8 (2) Subject to subsection (e), a general description of the
9 boundaries of the community school corporation.

10 (3) With respect to the board of school trustees:

11 (A) whether the number of members is:

12 (i) three (3);

13 (ii) five (5); or

14 (iii) seven (7);

15 (B) whether the members are elected or appointed;

16 (C) if the members are appointed:

17 (i) when the appointments are made; and

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- 1 (ii) who makes the appointments;
 2 ~~(D)~~ if (B) whether the members are elected ~~whether the~~
 3 election is at:
 4 (i) the primary election at which county officials are
 5 nominated; or
 6 (ii) the general election at which county officials are elected;
 7 and
 8 ~~(E)~~ (C) subject to sections 21 and 22 of this chapter, the
 9 manner in which members are elected. ~~or appointed.~~
 10 (4) The compensation, if any, of the members of the regular and
 11 interim board of school trustees, which may not exceed the
 12 amount provided in IC 20-26-4-7.
 13 (5) Subject to subsection (f), qualifications required of the
 14 members of the board of school trustees, including limitations on:
 15 (A) residence; and
 16 (B) term of office.
 17 (6) If an existing school corporation is divided in the
 18 reorganization, the disposition of assets and liabilities.
 19 (7) The disposition of school aid bonds, if any.
 20 (b) If existing school corporations are not divided in the
 21 reorganization, the:
 22 (1) assets;
 23 (2) liabilities; and
 24 (3) obligations;
 25 of the existing school corporations shall be transferred to and assumed
 26 by the new community school corporation of which they are a part,
 27 regardless of whether the plan provides for transfer and assumption.
 28 (c) The preliminary plan must be supported by a summary statement
 29 of:
 30 (1) the educational improvements the plan's adoption will make
 31 possible;
 32 (2) data showing the:
 33 (A) assessed valuation;
 34 (B) number of resident students in ADA in grades 1 through
 35 12;
 36 (C) assessed valuation per student referred to in clause (B);
 37 and
 38 (D) property tax levies;
 39 of each existing school corporation to which the plan applies;
 40 (3) the:
 41 (A) assessed valuation;
 42 (B) resident ADA; and

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(C) assessed valuation per student;
 data referred to in subdivision 2(A) through 2(C) that would have
 applied for each proposed community school corporation if the
 corporation existed in the year the preliminary plan is prepared or
 notice of a hearing or hearings on the preliminary plan is given by
 the county committee; and

(4) any other data or information the county committee considers
 appropriate or that may be required by the state board in its rules.

(d) The county committee:

(1) shall base the assessed valuations and tax levies referred to in
 subsection (c)(2) through (c)(3) on the valuations applying to
 taxes collected in:

(A) the year the preliminary plan is prepared; or

(B) the year notice of a hearing or hearings on the preliminary
 plan is given by the county committee;

(2) may base the resident ADA figures on the calculation of the
 figures under the rules under which they are submitted to the state
 superintendent by existing school corporations; and

(3) shall set out the resident ADA figures for:

(A) the school year in progress if the figures are available for
 that year; or

(B) the immediately preceding school year if the figures are
 not available for the school year in progress.

The county committee may obtain the data and information referred to
 in this subsection from any source the committee considers reliable. If
 the county committee attempts in good faith to comply with this
 subsection, the summary statement referred to in subsection (c) is
 sufficient regardless of whether the statement is exactly accurate.

(e) The general description referred to in subsection (a)(2) may
 consist of an identification of an existing school corporation that is to
 be included in its entirety in the community school corporation. If a
 boundary does not follow the boundary of an existing civil unit of
 government or school corporation, the description must set out the
 boundary:

(1) as near as reasonably possible by:

(A) streets;

(B) rivers; and

(C) other similar boundaries;

that are known by common names; or

(2) if descriptions as described in subdivision (1) are not possible,
 by section lines or other legal description.

The description is not defective if there is a good faith effort by the

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1 county committee to comply with this subsection or if the boundary
 2 may be ascertained with reasonable certainty by a person skilled in the
 3 area of real estate description. The county committee may require the
 4 services of the county surveyor in preparing a description of a boundary
 5 line.

6 (f) A member of the board of school trustees:

7 (1) may not serve ~~an appointive or elective~~ a term of more than
 8 four (4) years; and

9 (2) may serve more than one (1) consecutive ~~appointive or~~
 10 ~~elective~~ term.

11 SECTION 2. IC 20-23-4-16, AS ADDED BY P.L.1-2005,
 12 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2007]: Sec. 16. The form of a preliminary or final
 14 comprehensive plan of reorganization is sufficient if the plan contains
 15 in its own terms or by reference the following for each proposed
 16 community school corporation:

17 (1) The name of the proposed community school corporation.

18 (2) A general description of the boundaries of the community
 19 school corporation as provided in section 12 of this chapter.

20 (3) The number of members of the board of school trustees. ~~and~~
 21 ~~whether the members are elected or appointed.~~

22 (4) The manner in which the board of school trustees, other than
 23 the interim board, is elected. ~~or appointed.~~

24 (5) If a school corporation is divided as part of the reorganization,
 25 the disposition of assets and liabilities of the school corporation.

26 (6) The statement required by section 12 of this chapter if that
 27 statement is submitted or adopted with the plan.

28 SECTION 3. IC 20-23-4-19, AS AMENDED BY P.L.2-2006,
 29 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2007]: Sec. 19. (a) If the creation of a community school
 31 corporation out of an existing corporation:

32 (1) would not involve a change in its territorial boundaries or in
 33 its board of school trustees or other governing body, other than a
 34 change in the time of election ~~or appointment~~ or the time the
 35 board members take office; and

36 (2) is consistent with the standards set up under this chapter and
 37 the standards set out in this section;

38 the state board may on its own motion or on petition of the governing
 39 body of the existing school corporation at any time with hearing in the
 40 county where the school corporation is located, after notice by
 41 publication at least once in one (1) newspaper of general circulation
 42 published in the county where the school corporation is located, at least

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ten (10) but not more than thirty (30) days before the date of a hearing, and without action of the county committee declare the existing school corporation to be a community school corporation by adopting a resolution to this effect. The existing school corporation qualifies as to size and financial resources if it has an ADA of at least two hundred seventy (270) students in grades 9 through 12 or at least one thousand (1,000) students in grades 1 through 12, and has an assessed valuation per student of at least five thousand dollars (\$5,000).

(b) For purposes of this section, the following terms have the following meanings:

(1) "County tax" means a property tax:

(A) that is levied at an equal rate in the entire county in which any school corporation is located, other than a tax qualifying as a countywide tax within the meaning of Acts 1959, c.328, s.2, or any similar statute; and

(B) for which the net proceeds of which are distributed to school corporations in the county.

(2) "Assessed valuation" of any school corporation means the net assessed value of its real and personal property as of March 1, 1964, adjusted in the same manner as the assessed valuation is adjusted for each county by the department of local government finance under Acts 1949, c.247, s.5, as amended, unless that statute has been repealed or no longer provides for an adjustment. If a county has a county tax, the assessed valuation of each school corporation in the county shall be increased by the amount of assessed valuation, if any, that would be required to raise an amount of money, equal to the excess of the amount distributed to any school corporation from the county tax over the amount collected from the county tax in the school corporation, using total taxes levied by the school corporation in terms of rate:

(A) excluding the countywide tax under Acts 1959, c.328, s.2, or any similar statute; and

(B) including all other taxes levied by or for the school corporation.

The increased valuation shall be based on the excess distributed to the school corporation from the county tax levied for the year 1964 and the total taxes levied for the year, or if the county tax is first applied or is raised for years after 1964, then the excess distributions and total taxes levied for the year in which the tax is first applied or raised. If the excess distribution and total taxes levied cannot be determined accurately on or before the adoption of the resolution provided in this section, excess distribution and

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taxes levied shall be estimated by the department of local government finance using the last preceding assessed valuations and tax rates or such other information as that department determines, certifying the increased assessment to the state board before such time. In all cases, the excess distribution shall be determined upon the assumption that the county tax is one hundred percent (100%) collected and all collections are distributed.

(3) "Assessed valuation per student" of any school corporation means the assessed valuation of any school corporation divided by its ADA in grades 1 through 12.

(4) "ADA" in any school corporation means the average daily attendance of students who are residents in the school corporation and in the particular grades to which the term refers for the school year 1964-1965 in accordance with the applicable regulations of the state superintendent, used in determining average daily attendance in the distribution of the tuition funds by the state to its various school corporations where funds are distributed on such basis and irrespective of whether the figures are the actual resident daily attendance of the school for the school year.

(c) The community school corporation automatically comes into being on either July 1 or January 1 following the date of approval, whichever is earlier. The state board shall mail by certified mail, return receipt requested, a copy of the resolution certified by the county committee's chairperson or secretary to:

(1) the recorder of the county from which the county committee having jurisdiction of the existing school corporation was appointed; and

(2) the county committee.

The resolution may change the time of election ~~or appointment~~ of the board of trustees of the school corporation or the time the trustees take office. The recorder shall without cost record the certified resolution in the miscellaneous records of the county. The recording constitutes a permanent record of the action of the state board and may be relied on by any person. Unless the resolution provides that an interim member of the board of trustees shall not be appointed, the board of trustees in office on the date of the action continues to constitute the board of trustees of the school corporation until their successors are qualified, and the terms of their respective office and board membership remain unchanged except to the extent the resolution otherwise provides. For purposes of this chapter and IC 20-23-16-1 through IC 20-23-16-11, a community school corporation shall be regarded as a school

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corporation created under section 16 of this chapter.

SECTION 4. IC 20-23-4-20, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) After the state board approves a comprehensive plan or partial plan for reorganization of school corporations as submitted to the state board by a county committee, the state board shall promptly, by certified mail with return receipt requested, give written notice of the approval to:

(1) the chairperson of the county committee submitting the plan; and

(2) the judge of the circuit court of the county from which the county committee was appointed.

(b) After notice is given under subsection (a), a community school corporation proposed by a plan referred to in subsection (a) may be created:

(1) by petition as provided in this section;

(2) by election as provided in section 21 of this chapter; or

(3) under section 22 of this chapter.

(c) After receipt of the plan referred to in subsection (a) by the county committee and before or after the election described in section 21 of this chapter, a community school corporation proposed by a plan referred to in subsection (a) may be created by a petition. The petition must be signed by at least fifty-five percent (55%) of the registered voters residing in the community school corporation, determined in the manner set out in this section, and filed by any signer or by the county committee with the clerk or clerks of the circuit court or courts of the county or counties where the voters reside. The petition must state that the signers request the establishment of a community school corporation and must contain the following information:

(1) The name of the proposed community school corporation.

(2) A general description of the boundaries as set out in the plan.

(3) The number of members of the board of school trustees.

(4) The manner in which:

(A) the permanent board of school trustees **will be elected;** and

(B) if covered in the plan, the interim board of school trustees will be elected or appointed.

(5) The compensation, if any, of the members of:

(A) the permanent board of school trustees; and

(B) if covered in the plan, the interim board of school trustees.

(6) The disposition, if any, of assets and liabilities of each existing school corporation that:

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1 (A) is included in the proposed community school corporation;
2 and

3 (B) has been divided.

4 (7) The disposition of school aid bonds, if any.

5 (d) The petition referred to in subsection (c) must show:

6 (1) the date on which each person signed the petition; and

7 (2) the person's residence address on that date.

8 The petition may be executed in several counterparts, the total of which
9 constitutes the petition described in this section. An affidavit of the
10 person circulating a counterpart must be attached to the counterpart.
11 The affidavit must state that each signature appearing on the
12 counterpart was affixed in the person's presence and is the true and
13 lawful signature of the signer. Each signer on the petition may
14 withdraw the signer's signature from the petition before the petition is
15 filed with the clerk of the circuit court. Names may not be added to the
16 petition after the petition is filed with the clerk of the circuit court.

17 (e) After receipt of the petition referred to in subsection (c), the
18 clerk of the circuit court shall make a certification under the clerk's
19 hand and seal of the clerk's office as to:

20 (1) the number of signers of the petition;

21 (2) the number of signers of the petition who are registered voters
22 residing in:

23 (A) the proposed community school corporation; or

24 (B) the part of the school corporation located in the clerk's
25 county;

26 as disclosed by the voter registration records of the county;

27 (3) the number of registered voters residing in:

28 (A) the proposed community school corporation; or

29 (B) the part of the school corporation located in the clerk's
30 county;

31 as disclosed by the voter registration records of the county; and

32 (4) the date of the filing of the petition with the clerk.

33 If a proposed community school corporation includes only part of a
34 voting precinct, the clerk of the circuit court shall ascertain from any
35 means, including assistance from the county committee, the number of
36 registered voters residing in the part of the voting precinct.

37 (f) The clerk of the circuit court shall make the certification referred
38 to in subsection (e):

39 (1) not later than thirty (30) days after the filing of the petition
40 under subsection (c), excluding from the calculation of that period
41 the time during which the registration records are unavailable to
42 the clerk; or

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(2) within any additional time as is reasonably necessary to permit the clerk to make the certification.

In certifying the number of registered voters, the clerk shall disregard any signature on the petition not made in the ninety (90) days that immediately precede the filing of the petition with the clerk as shown by the dates set out in the petition. The clerk shall establish a record of the certification in the clerk's office and shall return the certification to the county committee.

(g) If the certification or combined certifications received from the clerk or clerks disclose that the petition was signed by at least fifty-five percent (55%) of the registered voters residing in the community school corporation, the county committee shall publish a notice in two (2) newspapers of general circulation in the community school corporation. The notice must:

(1) state that the steps necessary for the creation and establishment of the community school corporation have been completed; and

(2) set forth:

(A) the number of registered voters residing in the community school corporation who signed the petition; and

(B) the number of registered voters residing in the community school corporation.

(h) A community school corporation created by a petition under this section takes effect on the earlier of:

(1) July 1; or

(2) January 1;

that next follows the date of publication of the notice referred to in subsection (g).

(i) If a public official fails to perform a duty required of the official under this chapter within the time prescribed in this section and sections 21 through 24 of this chapter, the omission does not invalidate the proceedings taken under this chapter.

(j) An action:

(1) to contest the validity of the formation or creation of a community school corporation under this section;

(2) to declare that a community school corporation:

(A) has not been validly formed or created; or

(B) is not validly existing; or

(3) to enjoin the operation of a community school corporation; may not be instituted later than thirty (30) days after the date of publication of the notice referred to in subsection (g).

SECTION 5. IC 20-23-4-28.1 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2007]: **Sec. 28.1. (a) This section applies to members of the governing body of a school corporation, who before January 1, 2008, are appointed.**

(b) After December 31, 2007, the members of the governing body shall be elected as provided in this chapter.

(c) Before January 1, 2008, the governing body shall amend the school corporation's plan to provide for the election of the members of the governing body as provided in section 29 of this chapter. The amendment must provide that the successor of an appointed member shall be elected at either:

(1) the primary election at which county officials are nominated; or

(2) the general election at which county officials are elected; held immediately before that member's term of office is scheduled to expire.

(d) If the governing body fails to amend the school corporation's plan as required by subsection (c), the following apply:

(1) The successor of each appointed member of the governing body shall be elected at the general election at which county officials are elected and that is held in the year:

(A) that the appointed member's term expires, if the appointed member's term expires July 1; or

(B) immediately before the appointed member's term expires, if the appointed member's term expires January 1.

(2) The successor elected at the general election takes office on January 1 following the successor's election.

(3) The school corporation's plan is considered to provide that:

(A) the members of the governing body shall be elected at a general election at which county officials are elected; and

(B) a member of the governing body takes office January 1 after the member's election.

SECTION 6. IC 20-23-4-30, AS ADDED BY P.L.230-2005, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 30. (a) This section applies to each school corporation.**

(b) If the governing body is to be elected at the primary election, each registered voter may vote in the governing body election without otherwise voting in the primary election.

(c) If a tie vote occurs among any of the candidates, the tie vote

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shall be resolved under IC 3-12-9-4.

(d) If after the first governing body takes office, there is a vacancy on the governing body for any reason, including the failure of the sufficient number of petitions for candidates being filed, ~~whether the vacating member was elected or appointed~~, the remaining members of the governing body, whether or not a majority of the governing body, shall by a majority vote fill the vacancy by appointing a person from within the boundaries of the community school corporation to serve for the term or balance of the term. An individual appointed under this subsection must possess the qualifications provided for a ~~regularly elected or appointed~~ governing body member. ~~filling the office~~. If:

(1) a tie vote occurs among the members of the governing body under this subsection or IC 3-12-9-4; or

(2) the governing body fails to act within thirty (30) days after any vacancy occurs;

the judge of the circuit court in the county where the majority of registered voters of the school corporation reside shall make the appointment.

(e) A vacancy in the governing body occurs if a member ceases to be a resident of any community school corporation. A vacancy does not occur when the member moves from a district of the school corporation ~~from which the member was elected or appointed~~ **represents** if the member continues to be a resident of the school corporation.

(f) At the first primary or general election in which members of the governing body are elected:

(1) a simple majority of the candidates elected as members of the governing body who receive the highest number of votes shall be elected for four (4) year terms; and

(2) the balance of the candidates elected as members of the governing body receiving the next highest number of votes shall be elected for two (2) year terms.

Thereafter, all school board members shall be elected for four (4) year terms.

(g) Governing body members elected:

(1) in November take office and assume their duties on January 1 or July 1 after their election, as determined by the board of school trustees before the election; and

(2) in May take office and assume their duties on July 1 after their election.

SECTION 7. IC 20-23-4-31, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. (a) This section applies to each school

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corporation.

(b) ~~If the plan provides for the election of members of the governing body of the community school corporation:~~

~~(1) The judge of the circuit court, or~~

~~(2) in the case of a united school corporation, the judge of the circuit court of the county having the most students enrolled in the united school corporation~~

shall appoint interim governing body members in accordance with the plan approved by the county committee and the state board.

(c) The members of the governing body appointed serve until their successors are elected and qualified.

(d) Instead of appointment, the plan may provide for an alternative method of appointing the members of the interim governing body of a community or united school corporation. The appointment under this subsection must be made by one (1) or more of the ~~class of officials listed in section 28(e) of this chapter:~~ **following:**

(1) The judge of the circuit or superior court.

(2) The city executive.

(3) The legislative body of a city.

(4) The board of commissioners of a county.

(5) The county fiscal body.

(6) The town legislative body.

(7) The township executive.

(8) The township legislative body.

(9) A township executive and legislative body jointly.

(10) More than one (1) township executive and legislative body jointly.

SECTION 8. IC 20-23-5-11, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) Within sixty (60) days after the annexation takes place, the governing body of the acquiring school corporation and losing school corporation shall adopt a plan determining the manner in which the governing body shall be constituted. The plan shall be adopted in accordance with the requirements and procedures of IC 20-23-8, except as set out in subsection (b).

(b) The adoption of a plan by the governing body in accordance with IC 20-23-8-10 and its submission to the state board under IC 20-23-8-15 are the only procedures required when an existing plan is changed as follows:

(1) All governing body members are elected at large, and there are no governing body member residency districts.

(2) Governing body members are elected from governing body

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member residency districts, and the annexed territory is added to or deleted from one (1) or more districts.

~~(3) A governing body member is appointed from a given area or district, and the annexed territory is added to or deleted from one (1) or more districts or areas.~~

~~(4)~~ (3) A governing body member is elected solely by the voters in a school governing body member district, but the addition or deletion of the annexed territory to or from an existing district does not constitute a denial of equal protection of the laws.

If a school corporation elects ~~or appoints~~ members of its governing body both from a school governing body member district encompassing the entire school corporation and from smaller districts, the governing body of the acquiring school corporation shall add the annexed territory both to the district consisting of the entire school corporation and to one (1) or more smaller districts. In a comparable situation, the losing school corporation shall delete the annexed territory both from the district consisting of the entire school corporation and from any smaller district or districts. The change in the plan becomes effective upon its approval by the state board. The application of this subsection does not limit the initiation of, or further changes in, any plan under IC 20-23-8.

SECTION 9. IC 20-23-6-3, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) If the governing bodies of at least two (2) school corporations desire to consolidate school corporations, the governing bodies may meet together and adopt a joint resolution declaring intention to consolidate school corporations. The resolution must set out the following information concerning the proposed consolidation:

(1) The name of the proposed new school corporation.

(2) The number of members on the governing body and the manner in which they shall be elected. ~~or appointed:~~

~~(A) If members are to be elected;~~ The resolution must provide for:

~~(i)~~ (A) the manner of the nomination of members;

~~(ii)~~ (B) who shall constitute the board of election commissioners;

~~(iii)~~ (C) who shall appoint inspectors, judges, clerks, and sheriffs; and

~~(iv)~~ (D) any other provisions desirable in facilitating the election.

~~(B)~~ Where applicable and not in conflict with the resolution, the election is governed by the general election laws of Indiana, including the registration laws.

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(3) Limitations on residences, term of office, and other qualifications required of the members of the governing body. A resolution may not provide for ~~an appointive or elective~~ a term of more than four (4) years. A member may succeed himself or herself in office.

(4) Names of present school corporations that are to be merged together as a consolidated school corporation.

In addition, the resolution may specify the time when the consolidated school corporation comes into existence.

(b) The number of members on the governing body as provided in the resolution may not be less than three (3) or more than seven (7). However, the joint resolution may provide for a board of nine (9) members if the proposed consolidated school corporation is formed out of two (2) or more school corporations that:

(1) have entered into an interlocal agreement to construct and operate a joint high school; or

(2) are operating a joint high school that has an enrollment of at least six hundred (600) in grades 9 through 12 at the time the joint resolution is adopted.

(c) The members of the governing body shall, after adopting a joint resolution, give notice by publication once each week for two (2) consecutive weeks in a newspaper of general circulation, if any, in each of the school corporations. If a newspaper is not published in the school corporation, publication shall be made in the nearest newspaper published in the county in which the school corporation is located. The governing bodies of school corporations shall meet one (1) week following the date of the appearance of the last publication of notice of intention to consolidate. If a protest has not been filed, as provided in this chapter, the governing bodies shall declare by joint resolution the consolidation of the school corporations to be accomplished, to take effect as provided in section 8 of this chapter. However, on or before the sixth day following the last publication of the notice of intention to consolidate, twenty percent (20%) of the legal voters residing in any school corporation may petition the governing body of the school corporations for an election to determine whether or not the majority of the voters of the school corporation is in favor of consolidation.

SECTION 10. IC 20-23-6-6, AS AMENDED BY P.L.2-2006, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) On the day and hour named in the notice filed under section 5 of this chapter, polls shall be opened and the votes of the registered voters shall be taken upon the public question of consolidating school corporations. The election shall be governed by

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1 IC 3, except as provided in this chapter.

2 (b) The county election board shall conduct the election. The public
3 question shall be placed on the ballot in the form prescribed by
4 IC 3-10-9-4 and must state "Shall (here insert the names of the school
5 corporations that the resolution proposes to consolidate) be
6 consolidated into a consolidated school corporation?".

7 (c) A brief statement of the provisions in the resolution for
8 ~~appointment or~~ election of a governing body may be placed on the
9 ballot in the form prescribed by IC 3-10-9-4. A certificate of the votes
10 cast for and against the consolidation of the school corporations shall
11 be filed with:

12 (1) the governing body of the school corporations subject to the
13 election;

14 (2) the state superintendent; and

15 (3) the county recorder of each county in which a consolidated
16 school corporation is located;
17 together with a copy of the resolution.

18 (d) If a majority of the votes cast at each of the elections is in favor
19 of the consolidation of two (2) or more school corporations, the trustees
20 of the school corporations shall proceed to consolidate the schools and
21 provide the necessary buildings and equipment. In any school
22 corporation where a petition was not filed and an election was not held,
23 the failure on the part of the voters to file a petition for an election shall
24 be considered to give the consent of the voters of the school
25 corporation to the consolidation as set out in the resolution.

26 (e) If the special election is not conducted at a primary or general
27 election, the expense of the election shall be borne by the school
28 corporation or each of the school corporations subject to the election
29 and shall be paid out of the school general fund.

30 SECTION 11. IC 20-23-6-8, AS AMENDED BY P.L.2-2006,
31 SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2007]: Sec. 8. (a) Consolidated schools are under the control
33 and management of the consolidated governing body created under this
34 chapter, and a new consolidated school corporation comes into
35 existence:

36 (1) at the time specified in the resolutions provided in section 3
37 or 4 of this chapter; or

38 (2) if a time is not specified, at the following times:

39 (A) If a protest has not been filed and the creation is
40 accomplished by the adoption of a joint resolution following
41 publication of notice as provided in section 3 of this chapter,
42 thirty (30) days after the adoption of the joint resolution.

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(B) If the creation is accomplished after an election as provided in section 6 of this chapter, thirty (30) days after the election.

(b) The members of the governing body shall:

(1) take an oath to faithfully discharge the duties of office; and

(2) meet at least five (5) days before the time the new consolidated school corporation comes into existence to organize.

(c) The governing body shall meet to reorganize on August 1 of each year and at any time the personnel of the board is changed. At the organization or reorganization meeting, the members of the governing body shall elect the following:

(1) A president.

(2) A secretary.

(3) A treasurer.

(d) The treasurer, before starting the duties of the treasurer's office, shall execute a bond to the acceptance of the county auditor. The fee for the bond shall be paid from the school general fund of the consolidated school corporation. Any vacancy occurring in the membership in any governing body, other than vacancy in the office of an ex officio member, shall be filled in the following manner:

~~(1) If the membership was originally made by appointment, the vacancy shall be filled by appointment by the legislative body of the:~~

~~(A) city;~~

~~(B) town;~~

~~(C) township; or~~

~~(D) other body;~~

~~or other official making the original appointment.~~

~~(2) If the membership was elected, the vacancy shall be filled by a majority vote of the remaining members of the governing body of the consolidated school corporation.~~

(e) The members of the governing body, other than the township executive or ex officio member, shall receive compensation for services as fixed by resolution of the governing body. The members, other than the township executive or any ex officio member, may not receive more than two hundred dollars (\$200) annually. Any:

(1) township executive; or

(2) ex officio member of the governing body;

shall serve without additional compensation.

(f) The governing body of a consolidated school corporation may elect and appoint personnel it considers necessary.

SECTION 12. IC 20-23-6-9, AS AMENDED BY P.L.113-2006,

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SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) When any:

- (1) school town;
- (2) school city;
- (3) school township;
- (4) joint school; or
- (5) consolidated school;

has become consolidated by resolution or election and the new governing body has been ~~appointed~~ and legally organized, the former school township, school town, school city, joint school, or consolidated school is considered abandoned.

(b) All school:

- (1) property;
- (2) rights;
- (3) privileges; and
- (4) any indebtedness;

from the abandoned school is considered to accrue to and be assumed by the new consolidated school corporation.

(c) The title of property shall pass to and become vested in the new consolidated school corporation. All debts of the former school corporations shall be assumed and paid by the new consolidated school corporation. All the privileges and rights conferred by law upon the former:

- (1) school town;
- (2) school city;
- (3) school township;
- (4) joint school; or
- (5) consolidated school;

are granted to the newly consolidated school corporation.

(d) This subsection applies when the consolidated governing body of a consolidated school corporation decides that property acquired under subsection (b) from a township is no longer needed for school purposes. The governing body shall offer the property as a gift for park and recreation purposes to the township that owned the property before the school was consolidated. If the township board accepts the offer, the governing body shall give the township a quitclaim deed to the property. The deed must state that the township is required to use the property for park and recreation purposes. If the township board refuses the offer, the governing body may sell the property in the manner provided in subsection (e).

(e) This subsection provides the procedure for the sale of school property that is no longer needed for school purposes by the governing

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body of a consolidated school corporation. The governing body shall cause the property to be appraised at a fair cash value by:

(1) one (1) disinterested resident freeholder of the school corporation offering the property for sale; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana. One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the property. The appraisals shall be made under oath and spread of record upon the records of the governing body. A sale may not be made for less than the appraised value, and the sale must be made for cash. The sale shall take place after the governing body gives notice under IC 5-3-1 of the terms, date, time, and place of sale.

(f) Proceeds from a sale under subsection (e) shall be placed in a capital projects fund of the consolidated school corporation or other fund designated as the fund that is available for capital outlay of the school corporation.

SECTION 13. IC 20-23-7-6, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The first metropolitan board of education shall be composed of the:

(1) trustees; and

(2) members of school boards; of the school corporations forming the metropolitan board of education.

(b) The members of the metropolitan board of education shall serve ex officio as members subject to the laws concerning length of terms, powers of election, ~~or appointment~~ and filling vacancies applicable to their respective offices.

(c) If a metropolitan school district is comprised of only two (2) board members, the two (2) members shall appoint a third board member not more than ten (10) days after the creation of the metropolitan school district. If the two (2) members are unable to agree on or do not make the appointment of a third board member within the ten (10) day period after the creation of the metropolitan school district, the third member shall be appointed not more than twenty (20) days after the creation of the metropolitan school district by the judge of the circuit court of the county in which the metropolitan school district is located. If the metropolitan school district is located in two (2) or more counties, the judge of the circuit court of the county containing that part of the metropolitan school district having more students than the part or parts located in another county or counties shall appoint the third member. The members of the metropolitan board of education serve until their successors are elected ~~or appointed~~ and qualified.

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(d) The first meeting of the first metropolitan board of education shall be held not more than one (1) month after the creation of the metropolitan school district. The first meeting shall be called by the superintendent of schools, or township trustee of a school township, of the school corporation in the district having the largest number of students. At the first meeting, the board shall organize, and during the first ten (10) days of each July the board shall reorganize, by electing a president, a vice president, a secretary, and a treasurer.

(e) The secretary of the board shall keep an accurate record of the minutes of the metropolitan board of education and the minutes shall be kept in the superintendent's office. When a metropolitan school district is formed, the metropolitan superintendent shall act as administrator of the board and shall carry out the acts and duties as designated by the board. A quorum consists of a majority of the members of the board. A quorum is required for the transaction of business. The vote of a majority of those present is required for a:

- (1) motion;
- (2) ordinance; or
- (3) resolution;

to pass.

(f) The board shall conduct its affairs in the manner described in this section. Except in unusual cases, the board shall hold its meetings at the office of the metropolitan superintendent or at a place mutually designated by the board and the superintendent. Board records are to be maintained and board business is to be conducted from the office of the metropolitan superintendent or a place designated by the board and the superintendent.

(g) The metropolitan board of education shall have the power to pay to a member of the board:

- (1) a reasonable per diem for service on the board not to exceed one hundred twenty-five dollars (\$125) per year; and
- (2) for travel to and from a member's home to the place of the meeting within the district, a sum for mileage equal to the amount per mile paid to state officers and employees. The rate per mile shall change when the state government changes its rate per mile.

SECTION 14. IC 20-23-7-12, AS AMENDED BY P.L.1-2006, SECTION 317, AND AS AMENDED BY P.L.2-2006, SECTION 98, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) *As used in this section, "county" means the county in which the school township is located.*

~~(a)~~ (b) As used in this section, "school township" means a school township ~~of this state~~ in Indiana that:

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(1) for the last full school semester immediately preceding:

(A) the adoption of a preliminary resolution by the township trustee and the township board under subsection (f); or

(B) ~~the~~ *the* adoption of a resolution of disapproval *by the township trustee and the township board* under subsection (g); had an ~~average daily membership~~ ADM of at least six hundred (600) students in kindergarten through grade 12 in the public schools of the school township; or

(2) is part of a township in which there were more votes cast for township trustee outside the school township than inside the school township in the general election at which the trustee was elected and that preceded the adoption of the preliminary or disapproving resolution.

(c) As used in this section, "township board" means the township board of a township in which the school township is located.

~~(b)~~ *(d)* As used in this section, "township trustee" means the township trustee of the township in which the school township is located.

~~(c)~~ *(e)* As used in this section, "township board" means the township board of the township in which the school township is located.

~~(d)~~ *(f)* As used in this section, "county" means the county in which the school township is located.

(e) In a school township, a metropolitan school district may be created by complying with this section. A metropolitan school district created under this section shall have the same boundaries as the school township. After a district has been created under this section, the school township that preceded the metropolitan school district is abolished. ~~None of~~ The procedures or provisions governing the creation of a metropolitan school district under another section of this chapter ~~are applicable~~ *do not apply* to the creation of a district under this section. After a *metropolitan school* district is created under this section, the ~~metropolitan school~~ district shall, except as otherwise provided in this section, be governed by and operate in accordance with this chapter governing the operation of a metropolitan school district as established under section 2 of this chapter.

(f) Except as provided in subsection (g), a metropolitan school district provided for in subsection (e) may be created in the following manner:

(1) The township trustee shall call a meeting of the township board. At the meeting, the township trustee and a majority of the township board shall adopt a resolution that a metropolitan school district shall be created in the school township. The township

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trustee shall then give notice:

(A) by ~~publication by~~ two (2) ~~insertions~~ *publications* one (1) week apart in a newspaper of general circulation published in the school township; or

(B) if there is no newspaper as described in clause (A), in a newspaper of general circulation in the county;

of the adoption of the resolution setting forth the text of the resolution.

(2) On the thirtieth day after the date of the last publication of the notice under subdivision (1) and if a protest has not been filed, the township trustee and a majority of the township board shall confirm their preliminary resolution. If, however, on or before the twenty-ninth day after the date of the last publication of the notice, a number of registered voters of the school township, equal to five percent (5%) or more of the number of votes cast in the school township for secretary of state at the last preceding general election for that office, sign and file with the township trustee a petition requesting an election in the school township to determine whether or not a metropolitan school district must be created in the township in accordance with the preliminary resolution, then an election must be held as provided in subsection (h). The preliminary resolution and confirming resolution provided in this subsection shall both be adopted at a meeting of the township trustee and township board in which the township trustee and each member of the township board received or waived a written notice of the date, time, place, and purpose of the meeting. The resolution and the proof of service or waiver of the notice shall be made a part of the records of the township board.

(g) Except as provided in subsection (f), a metropolitan school district may also be created in the following manner:

(1) A number of registered voters of the school township, equal to five percent (5%) or more of the votes cast in the school township for secretary of state at the last general election for that office, shall sign and file with the township trustee a petition requesting the creation of a metropolitan school district under this section.

(2) The township trustee and a majority of the township board shall, not more than ten (10) days after the filing of a petition:

(A) adopt a preliminary resolution that a metropolitan school district shall be created in the school township and proceed as provided in subsection (f); or

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(B) adopt a resolution disapproving the creation of the district.

(3) If either the township trustee or a majority of township board members vote in favor of disapproving the resolution, an election must be held to determine whether or not a metropolitan school district shall be created in the school township in the same manner as is provided in subsection (f) if an election is requested by petition.

(h) An election required under subsection (f) or (g) may, at the option of the township trustee, be held either as a special election or in conjunction with a primary or general election to be held not more than one hundred twenty (120) days after the filing of a petition under subsection (f) or the adoption of the disapproving resolution under subsection (g). The township trustee shall certify the question to the county election board under IC 3-10-9-3 and give notice of an election:

(1) by two (2) ~~insertions~~ publications one (1) week apart in a newspaper of general circulation in the school township; or

(2) if a newspaper described in subdivision (1) does not exist, in a newspaper of general circulation published in the county.

The notice must provide that on a day and ~~at an hour~~ time named in the notice, the polls shall be opened at the usual voting places in the various precincts in the school township for the purpose of taking the vote of the registered voters of the school township regarding whether a metropolitan school district shall be created in the township. The election shall be held not less than twenty (20) days and not more than thirty (30) days after the last publication of the notice unless a primary or general election will be conducted not more than six (6) months after the publication. In that case, the county election board shall place the public question on the ballot at the primary or general election. If the election is to be a special election, the township trustee shall give notice not more than thirty (30) days after the filing of the petition or the adoption of the disapproving resolution.

(i) On the day and time named in the notice, the polls shall be opened and the votes of the voters shall be taken regarding whether a metropolitan school district shall be created in the school township. IC 3 governs the election except as otherwise provided in this chapter. The county election board shall conduct the election. The public question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state, "Shall a metropolitan school district under IC 20-23-7 be formed in the _____ School Township of _____ County, Indiana?". The name of the school township shall be inserted in the blanks.

(j) The votes cast in the election shall be canvassed at a place in the

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1 school township determined by the county election board. The
 2 certificate of the votes cast for and against the creation of a
 3 metropolitan school district shall be filed in the records of the township
 4 board and recorded with the county recorder. If the special election is
 5 not conducted at a primary or general election, the school township
 6 shall pay the expense of holding the election out of the ~~special~~ school
 7 ~~general~~ fund that is appropriated for this purpose.

8 (k) A metropolitan school district shall, subject to section 7 of this
 9 chapter, be created on the thirtieth day after the date of the adoption of
 10 the confirming resolution under subsection (f) or an election held under
 11 subsection (h). If a public official fails to do the official's duty within
 12 the time prescribed in this section, the failure does not invalidate the
 13 proceedings taken under this section. An action to contest the validity
 14 of the creation of a metropolitan school district under this section or to
 15 enjoin the operation of a metropolitan school district may not be
 16 instituted later than the thirtieth day following the date of the adoption
 17 of the confirming resolution under subsection (f) or of the election held
 18 under subsection (h). Except as provided in this section, an election
 19 under this subsection may not be held sooner than twelve (12) months
 20 after another election held under subsection (h).

21 (l) A metropolitan school district is known as "The Metropolitan
 22 School District of _____ Township, _____ County,
 23 Indiana". The first metropolitan board of education in a metropolitan
 24 school district created under this section consists of five (5) members.
 25 The township trustee and the township board members are ex officio
 26 members of the first board, subject to the laws concerning length of
 27 their respective terms of office, manner of election, ~~or appointment,~~
 28 and the filling of vacancies applicable to their respective offices. The
 29 ex officio members serve without ~~other~~ compensation or
 30 reimbursement for expenses, ~~other~~ than that which they may receive
 31 from their respective offices. The township board shall, by a resolution
 32 recorded in its records, appoint the fifth member of the metropolitan
 33 board of education. The fifth member shall meet the qualifications of
 34 a member of a metropolitan board of education under this chapter, with
 35 the exception of the board member district requirements provided in
 36 sections 4, 5, and 8 of this chapter.

37 (m) A fifth board member shall be appointed not more than fifteen
 38 (15) days after the date of the adoption of the confirming resolution
 39 under subsection (f)(2) or an election held under subsection (h). The
 40 first board shall hold its first meeting not more than fifteen (15) days
 41 after the date when the fifth board member is ~~appointed or~~ elected, on
 42 a date established by the township board in the resolution in which it

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1 appoints the fifth board member. The first board shall serve until July
 2 1 following the election of a metropolitan school board at the first
 3 primary election held more than sixty (60) days following the creation
 4 of the metropolitan school district.

5 (n) After the creation of a metropolitan school district under this
 6 section, the president of the metropolitan school board of the district
 7 shall serve as a member of the county board of education and perform
 8 the duties on the county board of education that were previously
 9 performed by the township trustee. The metropolitan school board and
 10 superintendent of the district may call upon the assistance of and use
 11 the services provided by the county superintendent of schools. This
 12 subsection does not limit or take away the powers, rights, privileges, or
 13 duties of the metropolitan school district or the board or superintendent
 14 of the district provided in this chapter.

15 SECTION 15. IC 20-23-8-4, AS ADDED BY P.L.1-2005,
 16 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2007]: Sec. 4. As used in this chapter, "plan" means the
 18 manner in which the governing body of a school corporation is
 19 constituted, including the number, qualifications, length of terms,
 20 manner, and time of ~~selection either by appointment or by election~~ of
 21 the members of the governing body.

22 SECTION 16. IC 20-23-8-7, AS ADDED BY P.L.1-2005,
 23 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2007]: Sec. 7. (a) A plan or proposed plan must contain the
 25 following items:

26 (1) The number of members of the governing body, which shall
 27 be:

28 (A) three (3);

29 (B) five (5); or

30 (C) seven (7);

31 members.

32 ~~(2) Whether the governing board shall be elected or appointed:~~

33 ~~(3) If appointed, when and by whom, and a general description of~~
 34 ~~the manner of appointment that conforms with the requirements~~
 35 ~~of IC 20-23-4-28.~~

36 ~~(4) If elected;~~ **(2) Whether the election of the members** shall be
 37 at the primary or at the general election that county officials are
 38 nominated or elected, and a general description of the manner of
 39 election that conforms with the requirements of IC 20-23-4-27.

40 ~~(5)~~ **(3) The limitations on:**

41 (A) residence;

42 (B) term of office; and

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(C) other qualifications;
required by members of the governing body.

~~(6)~~ (4) The time the plan takes effect.

A plan or proposed plan may have additional details to make the provisions of the plan workable. The details may include provisions relating to the commencement or length of terms of office of the members of the governing body taking office under the plan.

(b) Except as provided in subsection (a)(1), in a city having a population of more than fifty-nine thousand seven hundred (59,700) but less than sixty-five thousand (65,000), the governing body described in a plan may have up to nine (9) members.

SECTION 17. IC 20-23-8-8, AS AMENDED BY P.L.2-2006, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) A plan is subject to the following limitations:

(1) A member of the governing body may not serve for a term of more than four (4) years, but a member may succeed himself or herself in office. This limitation does not apply to members who hold over during an interim period to effect a new plan awaiting the selection and qualification of a member under the new plan.

(2) The plan if the members are:

~~(A) to be elected;~~ shall conform with one (1) of the types of board organization permitted by IC 20-23-4-27. ~~or~~

~~(B) appointed;~~ shall conform with one (1) of the types permitted by ~~IC 20-23-4-28.~~

(3) The terms of the members of the governing body, either elected to or taking office on or before the time the plan takes effect, may not be shortened. The terms of the members taking office under the plan may be shortened to make the plan workable on a permanent basis.

(4) If the plan provides for electoral districts, where a member of the governing body is elected solely by the voters of a single district, the districts must be as near as practicable equal in population. The districts shall be reapportioned and their boundaries changed, if necessary, by resolution of the governing body before the election next following the effective date of the subsequent decennial census to preserve the equality by resolution of the governing body.

(5) The plan shall comply with the:

(A) Constitution of the State of Indiana; and

(B) Constitution of the United States;

including the equal protection clauses of both constitutions.

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(6) The provisions of IC 20-23-4-26 through IC 20-23-4-33 relating to the board of trustees of a community school corporation and to the community school corporation, including provisions relating to powers of the board and corporation and provisions relating to the mechanics of selection of the board, ~~where elected and where appointed~~, apply to a governing body set up by a plan under this chapter and to the school corporation.

(b) The limitations set forth in this section do not have to be specifically set forth in a plan but are a part of the plan. A plan shall be construed, if possible, to comply with this chapter. If a provision of the plan or an application of the plan violates this chapter, the invalidity does not affect the other provisions or applications of the plan that can be given effect without the invalid provision or application. The provisions of a plan are severable.

SECTION 18. IC 20-23-8-13, AS ADDED BY P.L.1-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) This section applies to a school corporation located in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(b) The city legislative body may adopt an ordinance to increase the membership of the governing body of a school corporation to seven (7) members.

(c) The ordinance must provide the following:

(1) The **initial** additional members of the governing body are to be appointed by the city executive.

~~(2) If the plan is subsequently changed to provide for the election of governing body members:~~

~~(A) the membership of the governing body may not be less than seven (7); and~~

~~(B) (2) After appointment of the initial additional members, all~~ the members of the governing body are to be elected.

(3) The initial terms of the members appointed under this section.

(4) The effective date of the ordinance.

(d) An ordinance adopted under this section:

(1) supersedes a part of the plan that conflicts with the ordinance;

(2) must be filed with the state superintendent under section 22 of this chapter; and

(3) may only be amended or repealed by the city legislative body.

SECTION 19. IC 20-26-4-7, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. ~~(a)~~ Except as provided in IC 20-25-3-3, the governing body of a school corporation by resolution has the power to

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1 pay each member of the governing body a reasonable amount for
 2 service as a member, not to exceed:
 3 (1) two thousand dollars (\$2,000) per year; and
 4 (2) a per diem not to exceed the rate approved for members of the
 5 board of school commissioners under IC 20-25-3-3(d).
 6 (b) If the members of the governing body are totally comprised of
 7 appointed members, the appointive authority under IC 20-23-4-28(e)
 8 shall approve the per diem rate allowable under subsection (a)(2)
 9 before the governing body may make the payments.
 10 (c) To make a valid approval under subsection (b), the appointive
 11 authority must approve the per diem rate with the same endorsement
 12 required under IC 20-23-4-28(f) to make the appointment of the
 13 member.
 14 SECTION 20. IC 20-23-4-28 IS REPEALED [EFFECTIVE JULY
 15 1, 2007].

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